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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION EIGHT

In re J.W., A Person Coming Under the
Juvenile Court Law.

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff and Respondent,

v.

J.W.,

Defendant and Appellant.

B240953

(Los Angeles County
Super. Ct. No. MJ21052)

APPEAL from a judgment of the Superior Court of Los Angeles County.
Robin R. Kessler, Referee. Affirmed.

Jeanine Grimmond Strong, under appointment by the Court of Appeal, for
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On December 1, 2011, the People filed a petition under Welfare and Institutions Code section 602 to declare appellant J.W. a ward of the court based on an incident that had occurred on October 1, 2011. It was alleged that appellant had committed three counts of attempted second degree robbery (Pen. Code, § 664/211) and one count of battery with serious bodily injury (Pen. Code, § 243(d).)

The hearing on the petition took place over two days in April 2012. Witness Alan A. testified that he, his brother and two friends were walking outside the Antelope Valley Mall around 11:30 p.m. on October 1st, when Alan saw a larger group of juveniles ahead, walking in the same direction and then slowing down. As a result, Alan and his friends walked to the larger group. The larger group then separated in two and some of the members surrounded Alan's group. One of those in the larger group approached Alan and asked "us to empty out our pockets." Alan and his companions started laughing, believing the demand was a joke. Alan was then hit in the head, causing him to lose consciousness and fall to the ground. He was treated at a hospital and was released. Alan did not see his attacker and did not identify appellant in court.

Alan's brother, Johan, testified to essentially the same facts but also identified appellant as the person who hit Alan. Appellant "cocked his hand all the way back and hit my brother." He testified he got a good look at appellant at the time of the assault, when appellant ran away and when he was detained. He provided a description to law enforcement and in court.

Following a 911 call, LASD Deputy Bridgette Smith arrived at the scene. Alan and Johan told Deputy Smith what happened, and Johan described the assailant. A few minutes later, Deputy Smith received a radio call from another deputy, read a standard field show-up admonition to the two brothers, and drove them a short distance to where appellant and two others had been detained. Johan identified appellant who was wearing "the same thing" he had on at the time of the assault. Johan specifically recalled that appellant was the only person wearing a beige jacket and beige pants. About 10 minutes had elapsed between the confrontation in the mall and Johan's identification in the field.

Deputy Smith also testified to her interview with Alan and Johan and the circumstances of the field show up. She acknowledged there were some differences in the description Johan gave her at the scene and what appellant was later seen wearing while detained. Additionally, Johan had described the assailant as 5'7" and the booking information listed appellant as six feet.

After a motion to dismiss was argued, the court dismissed count 2, the attempted robbery charge as to one of the brothers' friends. The motion was denied as to the other counts.

Defense witnesses Vondre W. and John B. were called. Although there were minor differences in their testimony, both stated they were with appellant that evening at a going away party for another friend at Chili's adjacent to the mall. They arrived around 6:00 to 7:00 p.m. and stayed about two hours. At least a dozen people were at the party. The party broke up and the guests left the restaurant. Eventually they were walking in the direction of a smaller group when they saw a person on the ground with others nearby. Three people ran away from the scene but neither Vondre nor John could identify them. Both testified that appellant did not hit anyone or demand money.

Appellant also testified and confirmed his presence at the Chili's party with Vondre, John and a number of other friends. He also saw someone on the ground and others running away. He denied hitting anyone or demanding money. He testified about the shirt that he was wearing as was depicted in a photo received in evidence. The shirt differed in some respects from Johan's description of it. Appellant admitted that when initially detained he gave a false name to Sheriff's deputies. He explained that he had a previous curfew ticket and was afraid he was in violation because of the lateness of the hour.

At the conclusion of the hearing, the trial court sustained the petition as to counts 1, 3 and 4, and declared them to be felonies. Appellant was released home on probation with certain terms and conditions. No maximum term of confinement was set under Welfare & Institutions Code section 702 as defendant was not confined.

We appointed appellate counsel to represent defendant. On August 27, 2012, counsel filed a Wende brief stating she could not find any arguable issues for appeal. (*People v. Wende* (1979) 25 Cal.3d 436.)

On August 27, 2011, we sent a letter to counsel directing her to send the record on appeal and a copy of the opening brief to appellant. On the same date we sent a letter to appellant inviting him to file a letter or brief raising any issues he wanted us to consider. No letter or brief was filed.

We have reviewed the record and find no arguable issues for appeal.

DISPOSITION

The judgment is affirmed.

RUBIN, J.

WE CONCUR:

BIGELOW, P. J.

GRIMES, J.